

Each year, many people with mental illness come in contact with the criminal justice system. This video is one in a series designed to train defense attorneys for better understanding of how to best represent a client with mental illness. It's important to recognize a client with mental illness. The following checklist is not intended to speculate on a diagnosis, but to guide you in determining the status of your client.

Your first step is to ask your client questions to determine if there's a mental illness diagnosis. Do this as soon as possible. Ask about facts of the case. Ask if your client has been treated for any type of mental illness. Review medical records. Talk to the family, and interview witnesses. Next, seek to have your client released from jail on bond.

Review SDCL 23A-43-4 and 23A-43-5 for specific conditions of release. Next, consider whether an evaluation for competency may be appropriate. Failure to do so early in a case may result in delays and longer periods of incarceration. Your next step is to familiarize yourself with options where you live. Talk to mental health professionals and advocates and other experienced defense attorneys.

Then get familiar with the civil commitment procedures that might apply to your client's case. Lastly, determine if you need an independent mental health evaluation. A little due diligence on your part can go a long way toward fair treatment for clients with mental illness.